

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

IN RE:

Jarvis Alan Clark

)
) **CASE NO:16-14116 aih**
) **Chapter 13**
)
)

MOTION TO AVOID JUDGMENT LIEN
PURSUANT TO SECTION 522(f)(1)(A)

1. Debtor hereby moves this Honorable Court for its order avoiding the Judgment Lien of Discover Bank in the amount of \$17,125.98 with interest at 0% per annum plus costs and attorney fees, recorded in the Court of Common Pleas for Cuyahoga County, Ohio being Judgment Lien, #16-776193, filed July 28, 2016. (See attached exhibit "A")

2. Debtor states that he is the owner of certain residential real estate located at 3455 Edison Road, Cleveland Heights, OH 44121, more fully described in the legal description attached hereto. (See attached exhibit "B") Debtor state that said real estate is the primary residence of his spouse and children.

3. Said real estate has a fair market value of \$108,500.00, based upon the appraisal conducted by the Cuyahoga County Auditor. (See attached exhibit "C")

4. Debtor states that said real estate is encumbered by a first mortgage to 21st Mortgage Corporation, in the amount of \$33,159.00 as of the filing of his petition and schedules.

5. Debtor states that the Judgment Lien of Discover Bank impairs his One Hundred Thirty-Six Thousand Nine Hundred and Twenty-Five Dollar (\$136,925) homestead exemption to which the debtor is entitled under section 2329.66(A)(1) of the Ohio Revised Code..

6. Debtor states that the total of his first mortgage (\$33,159.00) and debtor's available exemption (\$136,925.00) exceed the fair market value of the real estate.

7. Debtor states that pursuant to section 522(f)(1)(A) of the Bankruptcy Code, a Judicial Lien may be avoided to the extent to which said lien impairs exemptions in said real estate to which the debtor would otherwise be entitled.

WHEREFORE, Debtor move this Honorable Court for an order avoiding the Judgment Lien of Discover Bank:

1. Pursuant to Section 522(f)(1)(A) of the Bankruptcy Code, as impairing Debtor's Homestead Exemption; and
2. For such further relief, both legal and equitable to which they may be entitled.

Respectfully submitted,

/s/ Mark H. Knevel

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CASE INFORMATION

JL-16-776193 DISCOVER BANK vs. JARVIS A CLARK

[Printer Friendly Version](#)

Docket Information

From Date	Type	Type	Type	Type	Search
/ /					
					Start Search

Filing Date	Side	Type	Description	Image
07/22/2016	N/A	JL	JUDGMENT AMT: \$17,125.98 RENDERED BY: CP CUYAHOGA ORIGINATING CASE NO.: CV15856484 JUDGMENT LIEN CASE#: JL16776193 CREDITOR: DISCOVER BANK DEBTOR: JARVIS A CLARK INTEREST AT: 0% INTEREST FROM DATE: 06/27/2016 COSTS: JUDGMENT DATE: 06/27/2016 DOCKET (JOURNAL): IMAGE PAGE: IMAGE TIME FILED: 07/22/2016 09:21:52 LIEN COST: 25 PAID BY: WELTMAN WEINBERG & REIS CO., L.P.A. SERIAL NUMBER: ACCOUNT NUMBER: PLUS COSTS.	
07/22/2016	C1	SF	CLERK'S FEE	
07/22/2016	C1	SF	DEPOSIT AMOUNT PAID WELTMAN WEINBERG & REIS CO., L.P.A.	
07/22/2016	N/A	SF	JUDGEMENT LIEN CASE FILED	

Only the official court records available from the Cuyahoga County Clerk of Courts, available in person, should be relied upon as accurate and current.

For questions/comments please [click here](#).

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Exhibit "A"

16-14116-AIH

DEED
1400

897857 REAL ESTATE TITLE
WARRANTY DEED No. 102A NO. 46068 The Ohio Legal Blank Co. Cleveland
Publishers and Dealers Since 1883

Know all Men by these Presents

That, Mark D. Gottlieb (unmarried) VOL. 98-14151 PAGE 31
the Grantor
who claim s title by or through instrument , recorded in Volume , Page
County Recorder's Office, for the consideration of
Torrens Doc No. 402768 & 69
Ten and 0/100 XXXXXXXXXXXXXXX Dollars (\$ 10.00)
received to his full satisfaction of Jarvis A. Clark (unmarried)

AND PROPERTY the Grantee ,
whose TAX MAILING ADDRESS will be 3455 Edison Road
Cleveland Heights, Ohio does

Give, Grant, Bargain, Sell and Convey unto the said Grantee , his
heirs and assigns, the following described premises, situated in the City of
Cleveland Heights , County of Cuyahoga and State of Ohio:

and known as being Sublot No. 143 in The Shaker Heights Improvement Company's
Subdivision No. 5 of part of Original Euclid Township Lot Nos. 13 and 54, as
shown by the recorded plat in Volume 82 of Maps, Page 12 of Cuyahoga County
Records, and being 50 feet front on the Northerly side of Edison Drive and
extending back between parallel lines 135 feet, as appears by said plat, be the
same more or less, but subject to all legal highways

Permanent Parcel No.: 681-32-028

3455 Edison Road
Cleveland Heights, Ohio

Legal Description complies with
Cuyahoga County Conveyance
Standards and is approved for
transfer.

W.P. 10/29/98
Agent Date

PARCEL NO. 681-32-028
CONVEYANCE IS IN COMPL. 10/30/98 O.R.C.

OCT 29 1998

Conveyance Fee 448.00 Piece of No. 236220
TYPE ARMS LENGTH YES () NO ()
FRANK RUSSO, Cuyahoga County Auditor By [Signature] Deputy

Frank Russo
CUYAHOGA COUNTY AUDITOR

RECORDED
INDEXED
OCT 29 1998
CUYAHOGA COUNTY

Exhibit "B"

be the same more or less, but subject to all legal highways.

681-32-028

CLARK, APRYL L. & JARVIS A.

3455 EDISON RD

CLEVELAND HEIGHTS, OH. 44121

Value History

Tax year: 2016 - Total Value: \$108,500

	Tax	Exempt	Abated
Land Use Code	5100		
Land	\$22,300	\$	\$
Building	\$86,200	\$	\$
Total	<u>\$108,500</u>	<u>\$</u>	<u>\$</u>

Exhibit "C"

CERTIFICATE OF SERVICE

Debtor, **Jarvis Alan Clark**, by and through counsel, hereby certify a copy of the foregoing Motion to Avoid Judgment Lien was served upon the following by CM / ECF Noticing System or ordinary US Mail, as indicated, on this the 24th day of July, 2017 :

Via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

Cleveland Office of the United States Trustee, on behalf of Daniel M. McDermitt, United States Trustee for Region 9, at the registered United States Trustee ECF mail box @usdoj.gov, established with the bankruptcy court.

Craig Shopneck, Chapter 13 Trustee

By Certified Mail

Discover Bank
% CT Corporation System
4400 Easton Commons Way Suite 125
Columbus, OH 43219

By Ordinary US Mail

Jarvis Clark
5868 Bearcreek
Bedford Heights, OH 44146

Discover Bank
c/o Discover Products Inc.
6500 New Albany Road
New Albany, OH 43054

Discover Bank
% David Mullen Esq.
323 W. Lakeside Avenue 2nd Floor
Cleveland, Ohio 44113

/s/ Mark H. Knevel

KNEVEL LAW CO. LPA

Mark H. Knevel, 0029285

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